

REMARKS

This is in response to the Office Action mailed on November 7, 2008 in which claims 1-10 were rejected. With this Amendment and Response, FIG. 5, the specification, and claims 1, 4-6, and 9 are amended. In addition, claim 10 is canceled and new claim 13 is added. All amendments and the new claim are fully supported by the original specification and drawings. Claims 11-12 were previously canceled. Claims 1-9 and 13 are pending in this application. In light of the foregoing Amendments and following remarks, Applicant respectfully requests advancement of this application to allowance.

Amendments to the Drawings

Please replace FIG. 5 with one drawing replacement sheet filed herewith. The drawing replacement sheet amends FIG. 5 to clearly illustrate two captive bolts 39 in phantom lines. This amendment is supported by the original application. For example, page 3, lines 28-32 originally stated: "FIG. 5 shows the valve/assembly 36 installed within a cistern 38 by passing the tail 22 of the valve 20 through an opening (not shown) in the base of the cistern 38 whilst passing the openings/apertures 28/30 over a correspondingly positioned pair of captive bolts (not shown). The assembly/valve 36 is fixed to the cistern 38 by fastening a pair of wingnuts 40 to the bolts." Therefore, the original specification clearly described the position of the captive bolts as being fastened to wingnuts 40 and through openings/apertures of valve 20. This position of the captive bolts is now illustrated in FIG. 5 with reference number 39.

Amendment to the Specification

The specification is amended at page 3, lines 30-31. First, the specification is amended herein to replace "openings/apertures 28/30" with the correct reference to "shaft portions/apertures 28/32" at page 3, line 30. This amendment is supported by the original specification and drawings, such as at page 3, lines 20-22.

Second, the specification is amended to replace "captive bolts (not shown)" with "fixing shafts, in the form of captive bolts 39." This amendment is supported by the original specification and drawings, such as at page 2, lines 20 and 29; page 3, lines 20-23; and original claims 6 and 10.

Declaration

In Section 1 of the Action the declarations were indicated to be defective, and stated that a new declaration is required. Applicant has reviewed the matter and has determined that the error is not in the Applicants declarations, but rather in the way that the declarations were saved into PAIR. Accordingly, applicant respectfully traverses the rejection and requests that the declaration filed on 11/21/05 be accepted as being a compliant declaration.

Three declarations have been filed in this matter. Copies of each of the declarations from Applicants file are attached as Exhibits A, B, and C as follows. The first (Exhibit A) was filed on March 9, 2005 and was intentionally left unsigned. The second (Exhibit B) was filed on September 6, 2005, but did not include checks in certain boxes. The third (Exhibit C) was filed on November 21, 2005, which Applicant believes to have been a fully compliant declaration.

Upon a review of the PAIR records for this matter, it appears that portions of the declarations have been improperly filed, leading to problems identified in Section 1 of the Action. PAIR includes an entry on 11-23-2005 for "Oath or Declaration Filed" having three pages. When opened, the PAIR copy of the declaration dated 11-23-2005 does not include a signature page. However, as shown in Exhibit C, the declaration did include a signature page when submitted to the Patent Office on 11/23/2005.

The missing signature page can be found in PAIR, but it is misfiled as being a part of the 09-06-05 declaration. As the Examiner noted in Section 1 of the Action, the PAIR copy of the "Oath or Declaration filed" on 09-08-2005 strangely includes two executions. The reason for this is that the third page of this document (the first execution page) does not belong with the 09-08-2005 declaration, but rather with the 11-23-2005 declaration.

The declaration submitted on November 23, 2005 is fully compliant with Patent Office guidelines, because it does include a proper execution as shown in Exhibit C. Reconsideration and withdrawal of the requirement for a new declaration are therefore requested.

Objection to the Disclosure

In Section 2 of the Action, the disclosure was objected to at page 3, line 30. Applicant thanks the Examiner for noting this informality. As noted above, the specification is amended herein to replace "openings/apertures 28/30" with the correct reference to "shaft

portions/apertures 28/32” at page 3, line 30. This amendment is supported by the original specification and drawings, such as at page 3, lines 20-22. Withdrawal of the objection is respectfully requested.

Objection to the Drawings

In Section 3 of the Action, the drawings are objected to under 37 C.F.R. § 1.83(a) for not showing every feature of the invention specified in the claims. Applicant respectfully traverses the rejection. However, in an effort to advance this application to allowance, FIG. 5 is amended herein to include an example of the fixing shaft in the form of a captive bolt 39, as discussed above. Reconsideration and withdrawal of the objection to the drawings is respectfully requested.

Objection to the Specification

In Section 4 of the Action, the specification is objected to for failing to provide proper antecedent basis for the claimed subject matter. Applicant respectfully traverses the rejection and the correctness of the rejection is not conceded. However, in an effort to advance this application to allowance, claims 1 and 4-6 are amended to clarify the intended meaning of the claims. Support for each term of the claims as noted in the Office Action is identified below:

The specification was objected to for the phrase “means to allow” in claim 1. Support for “means to allow” is found in the original specification at claim 6 and paragraph at page 2, lines 18-24.

The specification was objected to for the word “regions” in claim 4. Support for “regions” is provided in the original specification at claims 4 and 5, and at paragraph at page 2, lines 18-24.

The specification was objected to for the words “fixing shaft” in claims 6 and 10. Support for “fixing shaft” is found in the original specification at claims 6 and 10, and at paragraphs at page 2, lines 18-30.

The specification was objected to for the subject matter set forth in claim 8. Support for the subject matter in claim 8 is found in the original specification at claims 4, 5, and paragraphs at page 2, lines 18-24 and page 3, lines 20-24.

The specification was objected to for the “method” in claim 9. Support for the method is found in the original specification at the title, the abstract, claims 9-10, and the paragraphs at page 1, lines 6-8 and page 2, lines 25-28.

Reconsideration and withdrawal of the objection to the specification is respectfully requested.

Claim Rejection - 35 U.S.C. § 112

In Section 5 of the Action, claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully traverses the rejection and the correctness of the rejection is not conceded. However, in an effort to advance this application to allowance, claim 10 is canceled without prejudice or disclaimer. Withdrawal of the rejection is respectfully requested.

Claim Rejection - 35 U.S.C. § 102(b) - Graziosi

In Sections 6-7, claims 1, 2, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Graziosi (U.S. Patent No. 2,964,758). Applicant respectfully traverses the rejection and the correctness of the rejection is not conceded. However, in an effort to advance this application to allowance, claim 9 is amended. Claim 10 is canceled herein without prejudice or disclaimer.

A. Claims 1 and 2

Claim 1 is directed to a cistern outlet valve mounting bracket assembly. Claim 1 recites an assembly including first and second bracket members adapted for positioning about an outlet valve in engagement with each other and the valve, said members having a means to allow fixing of said members, when so engaged, to a cistern. (Emphasis added.) Graziosi fails to disclose all elements of claim 1.

First, Graziosi fails to disclose a cistern outlet valve mounting bracket, as recited in claim 1. The device disclosed in Graziosi is not a bracket that can mount an outlet valve to a cistern. Rather, Graziosi describes a clamp including arms 34 and 35 that is only able to fix part of a valve to another part of that valve. Specifically, Graziosi describes a clamp (including arms 34

and 35) for attaching the seat of an outlet valve to an intermediate flanged member 13. The member 13 is separately fastened to the cistern by a nut 16.

Second, Graziosi fails to disclose first and second bracket members having a means to allow fixing of said members to a cistern. Rather, Graziosi describes arms 34 and 35 that do not include a means to allow fixing of those arms to the cistern, as noted above.

This latter distinction is important in some embodiments as this feature enables an outlet valve to be fixed to the cistern in a manner allowing easy removal, and without requiring a nut on the (often inaccessible) tail of the outlet valve. The claimed invention, therefore, has improved and simplified construction when compared to the Graziosi device and also advantages during installation or replacement of a cistern outlet valve (as is discussed on page 4, lines 5 to 14 of the specification).

Reconsideration and allowance of claim 1, and claim 2 that depends therefrom, are respectfully requested.

B. Claim 9

Claim 9 is directed to a method of installing an outlet valve in a cistern. The method includes the sequential steps of: positioning first and second bracket members about the outlet valve and in engagement with each other and the outlet valve; and fixing said engaged members to said cistern. Graziosi fails to disclose all elements of claim 9.

For example, Graziosi fails to disclose “fixing said engaged members to said cistern,” as recited in claim 1. Rather, Graziosi describes a device that is only able to fix part of a valve to another part of that valve. Specifically, Graziosi describes a clamp (including arms 34 and 35) for attaching the seat of an outlet valve to an intermediate flanged member 13. The member 13 is separately fastened to the cistern by a nut 16.

Reconsideration and allowance of claim 9 is respectfully requested.

Claim Rejection - 35 U.S.C. § 102(b) - Grotewohl

In Sections 6 and 8, claims 1, 2, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Grotewohl (U.S. Patent No. 803,687). Applicant respectfully traverses the rejection and the correctness of the rejection is not conceded. However, in an effort to advance

this application to allowance, claim 9 is amended. Claim 10 is canceled herein without prejudice or disclaimer.

A. Claims 1 and 2

Claim 1 is directed to a cistern outlet valve mounting bracket assembly. Claim 1 recites an assembly including first and second bracket members adapted for positioning about an outlet valve in engagement with each other and the valve, said members having a means to allow fixing of said members, when so engaged, to a cistern. (Emphasis added.) Grotewohl fails to disclose all elements of claim 1.

First, Grotewohl fails to disclose a cistern outlet valve mounting bracket assembly as claimed. Rather, Grotewohl describes a generic pipe coupler that can be connected to a flush-tank. Page 1, lines 14-18. Grotewohl does not describe or suggest how such a pipe coupler could be used as a cistern outlet valve mounting bracket.

Second, Grotewohl fails to describe a means to allow fixing of the first and second bracket members to a cistern. In contrast, Grotewohl only describes fixing clamping parts C (including parts C¹ and C²) to an additional clamping member B via stud bolts B2. The clamping member B is in turn connected to a sleeve A. Accordingly, there is no disclosure in the Grotewohl patent of the clamping members C being fixed to the cistern A.

Reconsideration and allowance of claim 1, and claim 2 that depends therefrom, is respectfully requested.

B. Claim 9

Claim 9 is directed to a method of installing an outlet valve in a cistern. The method includes the sequential steps of: positioning first and second bracket members about the outlet valve and in engagement with each other and the outlet valve; and fixing said engaged members to said cistern. Grotewohl fails to disclose all elements of claim 9.

First, Grotewohl does not disclose a method of installing an outlet valve in a cistern. Rather, Grotewohl describes a pipe coupler that can be connected to a flush-tank. Page 1, lines 14-18. There is no disclosure in Grotewohl of an outlet valve or a method of installing an outlet valve in a cistern.

Second, Grotewohl fails to disclose fixing said engaged first and second bracket members to said cistern. Grotewohl describes a generic pipe coupler, but does not describe how such a generic pipe coupler could be used to mount an outlet valve within a cistern. Further, Grotewohl only describes fixing clamping parts C (including parts C¹ and C²) to an additional clamping member B via stud bolts B2. The clamping member B is in turn connected to a sleeve A. Accordingly, there is no disclosure in the Grotewohl patent of the clamping members C being fixed to the cistern A.

Reconsideration and allowance of claim 9 is respectfully requested.

Claim Rejection - 35 U.S.C. § 103(a)

A. Claims 3-6

In Section 9 of the Action, claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grotewohl in view of Erwin (U.S. Patent No. 5,755,464). Applicant respectfully traverses the rejection.

Claims 3-6 ultimately depend from claim 1, discussed above, and are therefore allowable for at least the same reasons. Furthermore, it would not have been obvious to modify Grotewohl in view of Erwin to supply the deficiencies of Grotewohl (or Graziosi) with respect to claim 1.

Moreover, it would not have been obvious to combine Grotewohl in view of Erwin because Erwin is in a different technical field than Grotewohl. Erwin is directed to a flange structure used to connect automobile exhaust system components. A person skilled in the art of bracket assemblies for cistern outlet valves would be unlikely to turn to the automotive field when considering a modification to such a device described in Grotewohl. Further, Grotewohl contains no suggestion to make such an alteration nor an indication that the device disclosed therein is lacking in friction, and thus needs such a modification.

Withdrawal of the rejection is requested.

B. Claims 7-8

In Section 10 of the Action, claims 7-8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Grotewohl in view of Erwin and further in view of Smith (U.S. 696,603). Applicant respectfully traverses the rejection.

Claims 7-8 ultimately depend from claim 1, discussed above, and are therefore allowable for at least the same reasons. Furthermore, it would not have been obvious to modify Grotewohl in view of Erwin as discussed above with reference to Section 9 of the Action.

Moreover, it would not have been obvious to modify Grotewohl or Erwin with Smith. More specifically, Smith is also directed to a different technical field than Grotewohl or Erwin. Smith is directed to the field of pipe couplings, not to the field of mounting bracket assemblies for cistern outlet valves. In addition, neither Grotewohl nor Erwin include any direction to make such a combination nor identify any deficiencies in their respective devices which may be improved by the addition of engaging formations between the first and second members of the bracket assembly.

In view of the above, withdrawal of the rejection is requested.

New Claim 13

With this Amendment, new claim 13 is added. Claim 13 depends from claim 9, and is therefore allowable for at least the same reasons as claim 9, discussed above. Consideration and allowance of claim 13 is respectfully requested.

Conclusion

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. There may be additional reasons that the pending subject matter is patentably distinct from the cited references in addition to those discussed herein. Applicant reserves the right to raise any such arguments in the future. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

MERCHANT & GOULD, P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date:

9 February 2009

By:

Brian H. Batzli
Ref. 32,960
BHB/BAT:ae